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APR 20 1992

April 20, 1992

Federal Communications Commission  
Office of the Secretary

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

RE: ASF Broadcasting Corp.  
BPH-911230MB  
Channel 280A  
Westerville, Ohio

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APR 22 7 19 AM '92  
FM EXAMINERS

Dear Ms. Searcy:

Enclosed for filing on behalf of Ohio Radio Associates, Inc.  
are an original and four (4) copies of its "Reply to Opposition  
of ASF Broadcasting Corp."

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APR 20 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

In Re Application of:

ASF BROADCASTING CORP.

File No. BPH-911230MB

Application for Construction  
Permit for a new FM station,  
Channel 28.0A, Westerville, Ohio

comparative hearing if another applicant proposes a fully-spaced tower site which is available and technically suitable.

ASF nevertheless contends that this policy of dismissal would not apply if a short-spaced applicant requests processing under the directional antenna provisions of Section 73.215. However, it offers no support for this novel proposition. Moreover, no public interest rationale would support such a special exception to Commission policy. Why should an applicant be considered in a comparative hearing if it proposes a short-spaced tower site which requires the Commission to spend time and resources processing a directional antenna proposal, when other applicants propose a fully-spaced tower site which requires no special processing? Commission policy strongly disfavors short-spaced tower sites and allows use of a directional antenna only when necessary. Here, there is no need to be short-spaced and to use a directional antenna.

ASF ignores the fact that the use of Section 73.215 is a waiver of Section 73.207. It also ignores the language of Section 73.215 which states that a short-spaced application filed under this provision may be granted only when the Commission determines that the grant would serve the public interest, convenience and necessity. No public interest justification can be found if there are fully-spaced tower sites available which are technically suitable. Naguabo Broadcasting Co., 6 FCC Rcd. 4879, para. 5 (1991). ASF does not contest that ORA's proposed tower site is available and technically suitable.

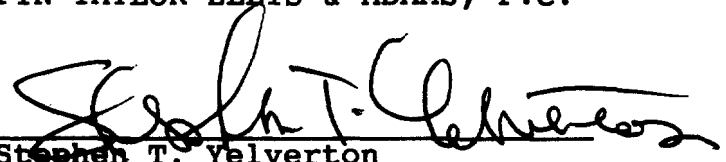
ASF contends that the adoption of Section 73.215 eliminated the requirement that no fully-spaced and technically suitable tower sites be available. However, it fails to cite to any Commission precedent in support. In MM Docket No. 87-121, 4 FCC Rcd. 1681 (1989), the Commission stated, at paras. 2, 5, 26 and 30, that directional antennas were contemplated to be used only where fully-spaced tower sites are unavailable or had limited suitability. To hold otherwise, would effectively repeal Section 73.207 and would allow tower sites to be placed anywhere so long as no actual interference is caused. However, the purpose of the minimum spacing requirements is not only to prevent interference, but also to allow a sufficient buffer zone for stations to modify or improve their facilities. North Texas Media, Inc. v. FCC, supra, at 33-34, n. 27.

WHEREFORE, in view of the foregoing, ORA requests that the Commission deny and dismiss the application of ASF. It failed to refute that Commission policy mandates the dismissal of short-spaced applicants in a comparative hearing when another applicant proposes a fully-spaced tower site which is available and technically suitable.

Respectfully submitted,

MAUPIN TAYLOR ELLIS & ADAMS, P.C.

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April 20, 1992  
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CERTIFICATE OF SERVICE

I, Kate D. Shawcross, a secretary in the law offices of Maupin Taylor Ellis & Adams, P.C., do hereby certify that on this 20th day of April, 1992, I have caused to be hand delivered or mailed, U.S. mail, postage prepaid, a copy of the foregoing "Reply to Opposition of ASF Broadcasting Corp." to the following:

Dennis Williams, Chief\*  
FM Branch  
Room 332  
Federal Communications Commission  
Washington, D.C. 20554

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Kate D. Shawcross

Hand Delivery\*

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